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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

FAUN O'NEEL, et al.

Plaintiffs,

v.

CITY OF FOLSOM, et al.

Defendants.

Case No. 2:21-cv-02403-WBS-DB

**STIPULATION AND ORDER
GRANTING LEAVE TO
PLAINTIFFS' FILING OF THIRD
AMENDED COMPLAINT**

Magistrate Judge: Hon. Deborah Barnes
Courtroom: 27, 8th Floor

STIPULATION

This STIPULATION ("Stipulation") is made and entered into by and between all parties, through counsel, as follows:

Recitals

WHEREAS, the parties have met and conferred regarding Plaintiffs filing of a 3rd Amended Complaint in this matter upon stipulation of the parties, agreeing with Plaintiffs intended request to seek leave to file a Third Amended Complaint for Civil Rights Violation, and,

WHEREAS, the Defendants do not by their stipulation waive any objections, grounds to dismiss or strike all or a portion of the 3rd Amended Complaint, or such other pleadings as they deem necessary related to the Third

Amended Complaint For Civil Rights Violation,

The parties therefore stipulate and agree and ask the Court order same as follows;

1. The Plaintiffs be granted leave to file the Third Amended Complaint For Civil Rights Violation, a copy of which is attached hereto as Exhibit A.

IT IS SO STIPULATED.

Date: 8/29/23

— /S/ Robert R. Powell
ROBERT POWELL, ESQ.
Attorney for Plaintiffs

Date: 8/29/23

/S/ Jonathan B. Paul
JONATHAN B. PAUL, ESQ.
Attorneys for County of
Sacramento

Date: 8/30/23

/S/ John R. Whitefleet
JOHN R. WHITEFLEET, ESQ.
Attorney for City of Folsom

ATTESTATION OF ELECTRONIC SIGNATURE

I, Robert Powell, attest that all other signatories listed hereto, and on whose behalf this filing is submitted, concur in the content of this Stipulation and have authorized the filing.

Date: 8/30/23

— /S/ Robert R. Powell
ROBERT POWELL, ESQ.
Attorney for Plaintiffs

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ORDER

Based on the party's submission of a Stipulation And [Proposed] Order Granting Leave To Plaintiffs' Filing Of Third Amended Complaint on or about August 30th, 2023, the Court does hereby approve of the requested stipulation and thereon makes the following orders;

1. The Plaintiffs are granted leave to file their Third Amended Complaint For Civil Rights Violation, a copy of which is attached hereto as Exhibit A, and shall do so in a timely manner upon receipt of this Order.

IT IS SO ORDERED.

Dated: August 31, 2023



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

EXHIBIT A

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

FAUN O'NEEL, individually and as
Guardian Ad Litem for her children
B.T., A.O., D.O., and A.T.

Plaintiffs,

v.

CITY OF FOLSOM, a public entity;
SPENSER HEICHLINGER, an
individual; MELANIE CATANIO, an
individual; LOU WRIGHT, an
individual; DOE CITY OF FOLSOM
DEFENDANTS, individuals;
KERYN STARKS, an individual;
SASHA SMITH, an individual;
COUNTY OF SACRAMENTO, a
public entity; DOE DCFAS
DEFENDANTS, individuals; and
DOES 1 through 10, inclusive,

Defendants.

Case No. 2:21-cv-02403-WBS-DB

**THIRD AMENDED
COMPLAINT FOR CIVIL
RIGHTS VIOLATION**

[JURY TRIAL DEMANDED]

PARTIES

1. Plaintiff FAUN O’NEEL (“Faun” or “Plaintiff”) is an individual residing in the County of Sacramento. Faun is the mother of minor Plaintiffs, B.T., A.O., D.O., and A.T. (The true names of the minors are replaced with the initials to protect their privacy.)

2. At or near the time of the filing of this Complaint Faun O’Neel has or will file a request for appointment as Guardian Ad Litem for her minor children B.T., A.O., D.O., and A.T.

3. Plaintiff B.T. is and was at all times relevant an individual residing in the County of Sacramento, California. B.T. is Faun’s daughter. At the time of the events alleged herein, B.T. was fourteen (14) years old.

4. Plaintiff A.O. is and was at all times relevant an individual residing in the County of Sacramento, California. A.O. is Faun’s daughter. At the time of the events alleged herein, A.O. was fourteen (14) years old.

5. Plaintiff D.O. is and was at all times relevant an individual residing in the County of Sacramento, California. D.O. is Faun’s son. At the time of the events alleged herein, D.O. was twelve (12) years old.

6. Plaintiff A.T. is and was at all times relevant an individual residing in the County of Sacramento, California. A.T. is Faun’s daughter. At the time of the events alleged herein, A.T. was ten (10) years old.

7. Defendant CITY OF FOLSOM (“CITY”) is a public entity. The Folsom Police Department is an administrative subdivision of CITY, responsible for enforcement of the law within the jurisdiction of the CITY.

8. Defendant MELANIE CATANIO (“CATANIO”) is an individual who on information and belief was at all times relevant a resident of the County of Sacramento and an officer, agent, and/or employee of CITY, working as a police officer for the Folsom Police Department. CATANIO is sued in her individual capacity as an employee of CITY.

1 9. Defendant LOU WRIGHT (“WRIGHT”) is an individual who on
2 information and belief was at all times relevant a resident of the County of
3 Sacramento and an officer, agent, and/or employee of CITY, working as a
4 police officer for the Folsom Police Department. WRIGHT is sued in his
5 individual capacity as an employee of CITY.

6 10. Other CITY police officers mentioned herein, but not Defendants at this
7 time, are officers HEICHLINGER, AUSTIN, and HUSAR.

8 11. Defendants DOE CITY DEFENDANTS are individuals who on
9 information and belief were at all times relevant residents of the County of
10 Sacramento and officers, agents, and/or employees of CITY, working as
11 police officers for the Folsom Police Department. Each of the DOE CITY
12 DEFENDANTS are sued in their individual capacity as an employee of
13 CITY. Plaintiffs are ignorant of the names of the DOE CITY DEFENDANTS.
14 Plaintiffs reserve the right to amend this complaint at such time as the
15 identities of these defendants are ascertained.

16 12. Defendant COUNTY OF SACRAMENTO (“COUNTY”) is a public
17 entity. The Department of Child, Family and Adult Services (“DCFAS”) is
18 administrative subdivision of COUNTY responsible for discharging the
19 COUNTY’s child welfare programs and delivering Child Welfare Services to
20 residents within the territorial jurisdiction of the COUNTY.

21 13. Defendant KERYN STARKS (“STARKES”) is an individual who on
22 information and belief was at all times relevant a resident of the County of
23 Sacramento and an officer, agent, and/or employee of COUNTY, working as
24 a social worker for DCFAS. STARKES is sued in her individual capacity as
25 an employee of COUNTY.

26 14. Defendant SASHA SMITH (“SMITH”) is an individual who on
27 information and belief was at all times relevant a resident of the County of
28 Sacramento and an officer, agent, and/or employee of COUNTY, working as

1 a social worker for DCFAS. SMITH is sued in her individual capacity as an
2 employee of COUNTY.

3 15. Defendants DOE COUNTY DEFENDANTS were at all times relevant
4 individuals residing in the County of Sacramento and officers, agents, and/or
5 employees of DCFAS. Plaintiffs are ignorant of the true names of the DOE
6 COUNTY DEFENDANTS. Plaintiffs reserve the right to amend this
7 complaint at such time as the true identities of said defendants are discovered.

8 16. The true names and capacities, whether individual, corporate, associate
9 or otherwise, of Defendants DOES 1 through 10, inclusive, are unknown to
10 Plaintiff at the present time. Plaintiff therefore sues said Defendants by such
11 fictitious names and will seek leave of Court to amend this Complaint to set
12 forth the true names and capacities thereof, when the same has been
13 ascertained.

14 17. Defendants, and each of them, were and are the agents, servants,
15 representatives, and/or employees of each of the other Defendants, herein, and
16 were at all times acting within the course and scope of such agency,
17 representation and employment and with the permission and consent of each
18 of said Defendants.

19 18. Plaintiffs are informed and believe, and upon such information and belief
20 allege, that each of the Defendants, including DOES 1 through 10, inclusive,
21 were at all times herein mentioned, acting in concert with, and in conspiracy
22 with, each and every one of the remaining Defendants in doing the things
23 alleged in this Complaint.

24 19. Wherever appearing in this Complaint, each and every reference to
25 Defendants, and to any of them, is intended to be and shall be a reference to
26 all Defendants hereto, and to each of them, named and unnamed, including all
27 fictitiously named Defendants, unless said reference is otherwise specifically
28 qualified.

JURISDICTION

20. Pursuant to 28 U.S.C. sections 1331, 1343(a)(3) and 1343(a)(4), the Court has original jurisdiction over the claims alleged herein arising under the Fourth, and Fourteenth Amendments to the United States Constitution.

21. Pursuant to 28 U.S.C. section 1367(a), the Court also has supplemental jurisdiction over the remaining state law claims, which are so related to the vindication of constitutional rights that they form the same case or controversy.

22. Plaintiff, Faun O’Neel, seeks to vindicate her liberty interest in the companionship, care, custody, and management of her children. Faun and her children, B.T., A.O, D.O, and A.T. have the constitutional right to live together without governmental interference. All Plaintiffs seek to vindicate their guaranteed right, under the Fourth, and Fourteenth Amendments to the United States Constitution, to not be separated without due process of law except in emergencies.

VENUE

23. Venue is proper in this judicial district because all Defendants are residents of California and the events or omissions giving rise to Plaintiffs’ claims occurred in the County of Sacramento, State of California.

COMMON FACTS

24. Faun is the biological mother of daughters, B.T. and A.T. and the adoptive mother of A.O and D.O. Over the years, Faun fostered more than 20 children in her home, from newborns through age 12. She once garnered recognition from COUNTY’s DFACS as “foster parent of the year.”

25. Faun fostered A.O. and D.O. for approximately 18 months, before she fell in love with them and formally adopted the children on December 21, 2011. A.O and D.O. are biological half-siblings.

1 26. In 2013, Faun married Danny O’Neel (“Danny”), a U.S. Army Veteran.
2 Danny became stepfather to all four children. At all times relevant to this
3 Complaint, Faun, Danny, B.T., A.O., D.O, and A.T., formed a family unit,
4 entitled to all the protection afforded under the United States Constitution and
5 the laws of the State of California.

6 27. Faun and Danny have always loved and nurtured their children. They
7 also take their duty to raise conscientious, responsible, and civic minded
8 children seriously. Each year, the O’Neel family adopts a family for
9 Christmas, serves meals for the underprivileged on Thanksgiving, volunteer
10 for suicide prevention services, and a variety of other projects designed to
11 assist veterans and first responders. Faun, herself, is the Executive Director of
12 Warfighter Overwatch, a non-profit geared towards assisting veterans of the
13 United States Armed Services and has been a fellow of the Elizabeth Dole
14 Foundation since 2015.

15 28. B.T., A.O., D.O., and A.T. had thrived under Faun and Danny’s care
16 their entire lives while in these parents’ care. Both B.T. and A.O. are/were
17 members of a High School cheerleading team that Faun coaches. D.O.
18 enjoyed playing golf and running cross country. Their youngest child, A.T.,
19 was born at just 23 weeks and already has had two open heart surgeries.
20 Despite this initial rough start, the child was also flourishing. All of this
21 would change after the unlawful conduct of the CITY Defendants identified
22 herein, and the unlawful conduct of the COUNTY Defendants identified
23 herein.

24 29. On December 20, 2020, the O’Neel family was relaxing at home in the
25 lead up to Christmas. Faun and the children were enjoying one of their family
26 traditions, which was to bake and decorate Christmas cookies.

1 30. That evening, the family had dinner plans to celebrate the birthday of
2 Travis Miller (“Uncle Travis”), a fellow veteran who lived in the O’Neel
3 family home.

4 31. Prior to leaving for dinner, Faun asked D.O. to put away the Christmas
5 cookies so that the family dog, Liberty, would not get to them while the
6 family was away at the restaurant. D.O. had extra chores that week because he
7 had been caught plagiarizing a school assignment the week prior and caused
8 several class disruptions.

9 32. When the family returned home, Faun discovered that the cookies had
10 not been put away as requested. The dog had eaten most of the cookies and
11 created a mess in the kitchen.

12 33. Faun called D.O. to clean up the mess in the kitchen, which now
13 included D.O.’s leftovers from the restaurant that spilled out from the
14 refrigerator due to the haphazard way that D.O. stored the food. Faun marched
15 D.O. to the kitchen to show him the mess he created. After D.O. cleaned the
16 kitchen, Faun sent him straight to his bedroom as a form of discipline.

17 34. At approximately 9:00 p.m., a loud banging was heard at the front door
18 of the family’s home. When Danny opened the door, he was met by
19 HEICHLINGER, AUSTIN, and HUSAR.

20 35. HEICHLINGER, AUSTIN, and HUSAR informed Danny that a 911 call
21 had been made and that the officers were there to carry out a welfare check on
22 the children. The child, B.T., had apparently called the 911 hotline to ask
23 whether grabbing a child by the neck was child abuse. Unbeknownst to Faun
24 and Danny, D.O. had gone to B.T.’s room after cleaning the kitchen and lied
25 that Faun picked him up by the neck and carried him to the kitchen.

26 36. HEICHLINGER, AUSTIN, and HUSAR entered the home without Faun
27 or Danny’s consent and without a warrant. When Danny protested, the police
28

1 officers became hostile and told Danny that he needed to “sit down and
2 behave.”

3 37. The police officers ordered Danny and Faun to wake the children up so
4 that they could be interviewed. Each of the children were interviewed by the
5 police officers outside of the presence of Danny and Faun. After concluding
6 the interviews, the police officers took several photographs of D.O. There
7 were no marks or bruises on D.O.

8 38. After interviewing the children and Faun, the officers left the home.
9 They did not interview the other residents of the home, including Uncle
10 Travis and Travis’s father who was visiting from out of state.

11 39. None of the officers presented any paperwork, contact information, or
12 other resources regarding what might happen next. No one in the home was
13 arrested or even given a citation of any kind.

14 40. Plaintiffs are informed and believe and thereon allege that, on December
15 21st, 2020, HEICHLINGER, contacted Sacramento County DCFAS to cross
16 report suspected child abuse, though his report of the incident, which
17 CATANIO later reviewed before removing the children with Defendant
18 WRIGHT on December 22nd, 2020, clearly stated there were no marks around
19 D.O.’s neck and included in his report 5 pictures he had taken of D.O.’s face
20 and neck area that supported that truth.

21 41. Among other things, said officer reported CITY’s police department
22 received a call from B.T., that her brother D.O. told her that Faun put her
23 hands on his neck and “picked him up by the throat with both hands” because
24 he did not put the Christmas cookies away properly. Said officer reported that
25 the officers spoke with Faun, who stated that she grabbed D.O. by the back of
26 the neck – not around his throat - and made him clean up the food.
27 HEICHLINGER also reported that nobody else in the family witnessed the
28 incident, though A.O. reported that she “thought she heard choking noises.”

1 42. After the cross-report by HEICHLINGER, DCFAS workers performed a
2 risk assessment and safety assessment using the state-wide Structured
3 Decision Making (SDM) tool of the California Department of Social Services,
4 which indicated that the referral should be “evaluated out” as it “[did] not
5 meet criteria for abuse or neglect” based on the information received.”

6 43. “Evaluate out” in child welfare parlance means to close the matter, no
7 response or investigation of a social worker is required.

8 44. On December 22, 2020, two days after the initial contact, and without
9 either any further investigation or any other incidents involving the children,
10 CATANIO, WRIGHT, and DOE CITY DEFENDANTS 1-4 arrived at
11 Plaintiffs’ home. CATANIO informed Faun and her husband Danny at the
12 front door, before ever entering the home, that they were there to seize all of
13 the children and remove them.

14 45. None of the Defendants who came to the home on December 22nd, 2020
15 presented a warrant or court order, authorizing the seizure of any of the
16 children. At the time of the seizure, none of the children were in danger of
17 suffering serious bodily injury or death within the time it would have taken
18 Defendants to obtain a warrant, authorizing the seizure.

19 46. In addition, no effort of any kind was made by CATANIO or WRIGHT
20 to seek any less intrusive means to potentially protect the children from their
21 unsubstantiated perception – apparently – that the children were at imminent
22 risk of serious bodily injury. Indeed, even though Faun suggested that her
23 mother could take placement of the children and lived nearby, CATANIO did
24 not so much as ask for the grandmother’s name or address and told Faun that
25 issue – placement with a relative – would be decided “later.”

26 47. As HEICHLINGER, AUSTIN, and HUSAR before them, CATANIO,
27 WRIGHT, and DOE CITY DEFENDANTS 1-4 entered the home without
28 obtaining Danny or Faun’s consent and removed the children, including three

1 children A.O., B.T., and A.T., for whom there were no current allegation of
2 abuse or neglect of any kind.

3 48. Also, while at the front door, out of “nowhere,” CATANIO accused
4 Faun of having had her children previously removed due to [D.O.]g abuse.
5 This assertion was as shocking as it was untrue and Faun told her so;
6 CATANIO charged on ahead with her plan to remove all of the children
7 simply saying that’s what her records “show.”

8 49. Faun had never had any of her children removed from her home for any
9 reason in the past related to any claim of [D.O.]g or alcohol abuse. She did
10 have one child whose placement was changed from her house, but the child
11 was suffering rather serious mental health issues with accompany
12 unacceptable behavior issues, which included fabricating claims against Faun.
13 and Faun asked that she be removed from her care. Plaintiffs are informed
14 and believe, and thereon allege, that CATANIO intentionally made this
15 knowingly false accusation about prior removal of children due to Faun’s
16 [D.O.]g abuse, in order to further terrorize Plaintiffs, particularly Faun.

17 50. When CATANIO took the children back to the CITY police station
18 CATANIO interviewed B.T., A.O, D.O., and A.T. During the interviews,
19 CATANIO, in an apparent effort to “relate” to the children, told the children
20 about trauma that she and her sibling had purportedly suffered during their
21 own childhood and stated that she was a victim of child abuse.

22 51. CATANIO did not learn anything new before removing the children on
23 December 22, that suggested that Faun or Danny presented an imminent risk
24 of causing serious bodily injury to the children, and having done zero
25 “investigation” between the time CITY Defendants came to Faun’s home on
26 December 20th, there could not have been further information known to
27 CATANIO or any of the officers who came to the home on December 22,
28 2020 that remotely constituted an articulable imminent risk of serious bodily

1 injury to any of the children such that there was insufficient time within which
2 to obtain a warrant or explore lesser intrusive alternatives that did not entirely
3 disrespect and violate the Plaintiffs rights of familial association pursuant to
4 the 14th Amendment.

5 52. Plaintiffs are informed and believe that CATANIO and/or WRIGHT
6 also, on the way to CITY Police Department stopped to pick up food for the
7 children at Chick-fil-A and during that time in the patrol car, also questioned
8 the children, yet made no recording of any of those conversations.

9 53. Plaintiffs affirmatively allege, due to obtaining audio-recordings, that
10 CATANIO's interviews of the children at the police station were conducted in
11 a wholly inappropriate manner in direct contravention of the breadth of
12 knowledge regarding both the impropriety and ineffectiveness of suggestive
13 and leading questioning of minor children.

14 54. In the police station interviews CATANIO pressured the children to
15 supply information against their parents in a manner highly suggestive of the
16 responses that she sought. CATANIO knew that the children would undergo a
17 separate forensic examination known in Sacramento County as a "SAFE"
18 interview (an interview that is conducted by a trained forensic child abuse
19 interviewer and audio-videotaped), and expressly stated she intended to
20 conduct one in her police report about December 22nd, 2020. Either due to a
21 lack appropriate training or inappropriate practices, or an oversized crime-
22 stoppers ego, CATANIO still interviewed the children for what would be the
23 second or third time by the end of December 22nd, 2020, even though the very
24 purpose of SAFE interviews is to avoid multiple interviews of young children
25 both for purposes of avoiding taking them through multiple acts of
26 questioning about what are believed to be traumatic events and circumstances.

27 55. CATANIO knew or should have known that it is both emotionally
28 damaging and highly improper to subject children to multiple interrogations

1 and doing so can in fact undermine children's credibility as well as harm them
2 emotionally, but did so anyway, indicating a lack of training or conduct, the
3 moving force behind which was CITY practices or policies.

4 56. By way of example as to just how bad these interviews were conducted
5 by CATANIO, when interrogating the child, A.O., CATANIO misrepresented
6 to the child what her other siblings had said or felt, projected her own
7 (CATANIO's) thoughts of how the children should feel, e.g. "it's scary to
8 have to be home after that and feel the frustration or anger from mom and
9 dad," and unbelievably, she relayed her own childhood experiences of abuse,
10 all in an effort to coerce and pressure the child to give a version of the facts
11 that CATANIO wanted.

12 57. Throughout her entire interrogation of the children, CATANIO
13 employed the use of leading questions to improperly put words in the mouths
14 of the children or to suggest the responses that she desired.

15 58. CATANIO went so far as to pressure and put fear into the children by
16 outrageously suggesting that Faun could be responsible for causing the death
17 of one or more of the children, if the children did not provide the answers she
18 wanted:

19 "I work these cases all the time, right? All it takes is for a reaction
20 like that to go a little too far and then it's too late for [D.O.] And I
21 don't want it to be too late for [D.O.] And I don't want it to be too
22 late for you. I don't ever wanna have to have that call that we are
23 sitting here today and we could have prevented that from happening.
24 And that something goes on and you kids go back there and there's
25 another reaction, but this time it went too far. Do you understand
26 what I'm saying? Do you get where I'm coming from?"

27 59. Within 20 minutes of the children's arrival at the Folsom Police
28 Department, maternal grandmother, Fara Canutt, arrived to request that the
children be placed in her care. Upon seeing their grandmother at the police

1 station, children begged CATANIO for permission to go with their
2 grandmother.

3 60. CATANIO refused to let the children even see or speak with their
4 grandmother and denied their request to leave with Fara, despite the fact
5 someone like Fara, a family member with a close bond with all of the children
6 for between most or all of their lives (the latter as to the O’Neel biological
7 children certainly) is exactly what complying with the “lesser intrusive
8 alternative” requirement under federal law means.

9 61. Instead of determining whether it would be safe for the children to be
10 placed with their maternal grandmother, CATANIO, WRIGHT, and DOE
11 CITY DEFENDANTS 1 – 5 subjected Fara to an interrogation regarding
12 Faun’s disciplinary practices. When Fara stated that she had not witnessed or
13 heard anything out of the ordinary with regard to the discipline of the children
14 and that none of the children had complained about any abuse or harsh
15 punishment, Defendants refused to allow her to take temporary custody of the
16 children or to even give them a hug. Instead, CATANIO and/or the other Doe
17 Defendants released the children to DCFAS personnel STARKES, and they
18 were placed in non-relative foster care.

19 62. At the time the four children were placed in foster care, there were no
20 exigent circumstances, i.e. none of the children were in danger of suffering
21 severe bodily injury or death within the time it would have taken to obtain a
22 warrant. In addition, Defendants had no reasonable basis for refusing to place
23 the children with a ready, willing, and able grandparent of the children instead
24 of in foster care, a much less intrusive option than separating the children
25 from everyone and everything with which they were familiar.

26 63. After seizing the four children, CATANIO contacted STARKES on
27 December 23rd, 2020 at approximately 10:55 a.m., and requested an
28 immediate response from DCFAS to assess for physical abuse. At the time

CATANIO placed the call, she had no new information to provide, other than (1) that CATANIO had decided to seek an arrest warrant for Faun, (2) B.T. disclosed that D.O. Faun had pushed D.O. “about a year ago” and that D.O. needed to get stitches, and (3) that there was a police report from 2010, where Faun was accused of breaking her foster child’s arm.

64. Because the outcome of the SDM tool indicated that the report of suspected abuse should be “referred out,” STARKES consulted with her supervisor Alycia Egli. STARKES and her supervisor decided to “upgrade” the referral to emergency response, overriding the outcome of the SDM tool.

65. The SDM tool, is a statewide “tool” that is intended to provide some uniformity in the assessment of child abuse and/or neglect, so as to remove the wide vagaries of subjective interpretation of family history, ethnicity, family composition, and prior history of alleged abuse or neglect, to avoid the wildly disparate decision outcomes that had been happening for decades in California before implementation of the SDM tool use requirements.

66. The SDM, which began state-wide use in 2005, is defined to the public as implementing “an approach to child protective services that uses clearly defined and consistently applied decision-making criteria for screening for investigation, determining response priority, identifying immediate threatened harm, and estimating the risk of future abuse and neglect.” Sadly, however, the SDM tools allow for an “override” and their success in avoiding wildly disparate outcome because of this feature is limited; this case is such an example.

67. STARKES met with CATANIO, who provided STARKES a “protective custody report.” Said report stated that all four children were “in present danger of ongoing physical abuse” because Faun had “strangled” D.O., among other things. At the time CATANIO made such report, she knew that there was no physical evidence of any kind that D.O. had been strangled.

68. Also at that time, STARKES received a copy of CATANIO's police report and the prior report from 12/20/20 which clearly noted the lack of any physical evidence of strangulation and included photographs of D.O.'s neck which made it impossible for a reasonable person to conclude that D.O. had been "strangled" in any way whatsoever. STARKES would later make the same observation herself of no injuries to D.O.'s face or neck.

69. Based on her review of the report and her discussion with CATANIO, STARKES knew that insufficient grounds existed for seizing the children or keeping them in detention without a court order or parental consent. She knew, for example, that there was no physical evidence that D.O. was strangled by anyone and that D.O.'s story of being lifted by the neck and carried from his bedroom to the kitchen was implausible. STARKES also knew that there were no corroborating witnesses.

70. Nevertheless, STARKES agreed with CATANIO that the children should be transported to DCFAS office, and that DCFAS would take custody of the O'Neel children.

71. At the DCFAS office, STARKES interrogated each of the children without notifying Faun. This was now the third interview of the children before the "gold standard" process of the SAFE interviews intended to limit that very thing; multiple interviews of young children!

72. When STARKES examined D.O., she noted in her own records of the interview that "[n]o evidence of abuse or neglect was observed on the child's neck or face." D.O. also denied having any injuries. The child also reported feeling safe at home and would not feel uncomfortable if he returned home. D.O. stated that Faun grabbed him by the back of the neck.

73. STARKES never reported that D.O. felt safe in the care of Faun and Danny or that B.T. (the oldest) also said she felt D.O. was "safe" in the care of the parents in the warrant application she later wrote to accomplish yet

1 another seizure of the children unlawfully by way of submitting a warrant
2 application filled with falsehoods and riddled with omissions of exculpatory
3 information she had in her possession at the time she prepared the warrant
4 application, nor did she advise the Court of these facts in the Detention Report
5 she subsequently authored.

6 74. All of the other children reported to STARKES, as they did to every
7 CITY police officer they had spoken to by that time, that they did not witness
8 any physical altercation between Faun and D.O.

9 75. The following day, on December 23, 2020, STARKES spoke with Faun
10 by telephone. Faun denied carrying or pushing D.O. into the kitchen by the
11 neck. She denied that she ever had a [D.O.]g problem or tested positive for
12 [D.O.]g or alcohol problems.

13 76. On December 24, 2020, the children were released to maternal
14 grandmother, Fara Canutt, with a “safety plan,” signed by STARKES, Faun,
15 Danny, and Ms. Canutt. According to the plan, Faun and her husband would
16 vacate the family home so that the children could return there and stay in the
17 care of Ms. Canutt. The plan also provided that all contact between Faun and
18 her children would be supervised by Ms. Canutt and that certain topics of
19 discussion would be forbidden between the children and Faun/Danny.

20 77. Faun and Danny followed every requirement of the Safety Plan at all
21 times.

22 78. On December 30, 2020, D.O. and A.T. each underwent a S.A.F.E. center
23 interview. D.O. admitted that he lied about Faun choking him. D.O. also
24 mentioned that his parents disciplined him because he had a habit of lying.
25 A.T. also disclosed that Faun did not choke and carry D.O. to the kitchen.
26 A.T. said that she witnessed D.O. “walking” from his room to the kitchen.
27 The other children also mentioned the issue of D.O. lying, a credibility issue
28

as to D.O. that never made it into STARKES subsequent warrant application, W&IC 300 Petition or Detention Report.

79. On January 8, 2021, STARKES submitted an application in support of an application for a protective custody warrant to the Juvenile Court (“warrant application”). STARKES knew that the juvenile court would review and rely upon the representations contained in her application in issuing or denying her application, so did SMITH. STARKES signed the application under penalty of perjury after SMITH reviewed the application and approved it for filing, though never herself checking any of the source information both used – and withheld – by STARKES in the warrant application.

80. Despite her obligation to tell the complete truth, in her warrant application, STARKES intentionally made numerous false representations and concealed material exculpatory information from the Court.

81. Despite her obligation to tell the complete truth, in her warrant application, STARKES intentionally made numerous false representations and concealed material exculpatory information from the Court.

82. Among other things, STARKES misrepresented that:

a. The children are in imminent danger of physical or sexual abuse and there are no reasonable means by which the children can be protected without temporary removal from the physical custody of the parents or guardians.”

b. “The children’s physical environment poses an imminent threat to the children’s health or safety and there are no reasonable means by which the children can be protected without temporary removal from the physical custody of the parents or guardians.”

c. That a “safety plan was created, which included the parents not residing in the home with the children and only having supervised virtual visitations for one hour total every other day, except for a supervised visit at the

1 family home on Christmas day for four hours.” The Safety Plan did not say
2 anything at all about “only supervised visitations for on hour total every
3 other day.” There was no time limit whatsoever to the visits, only that
4 grandmother supervises them. The Safety Plan did not say a single word
5 about “virtual” visitation. Notably, the Safety Plan was not attached to the
6 warrant application. It also was not attached to the Detention Report
7 STARKES and SMITH authored and signed. The non-inclusion of the
8 source documents was a long-standing practice of COUNTY social
9 workers designed to allow their lies, misrepresentations, and omissions of
10 exculpatory information to go undetected.

11 d. “The mother, maternal grandmother, and step-father are not following
12 the safety plan that was established by allowing the parents continued
13 contact with the children and also discussing the ongoing CPS and law
14 enforcement investigations.” As already noted, this was entirely false, and
15 its falsity known to STARKES, or the representations made with reckless
16 disregard for their truth or falsity. The parents told them of an upcoming
17 interview; the children had been through at least three of them at that point.
18 “Foreshadowing” an event again such as that, particularly for which you’ve
19 received a brochure on the “process,” is for young children literally a sign
20 of great parenting. Doing so helps lower children’s anxiety, and it certainly
21 is not “coaching.”

22 e. Before the SAFE interview on December 30th, 2020, Faun had informed
23 STARKES of cognitive deficiencies suffered by A.T., and Faun had
24 literally told CATANIO on the day of the removal (12/22/20) that A.T.’s
25 cognitive deficiencies were related in particular to an orientation as to
26 “time.” Faun also gave DOMINIQUE SMITH (not a defendant), who was
27 the social worker right at the timeframe of the removal because STARKES
28 was on vacation, a copy of A.T.’s Individualized Education Plan, which

1 reflected the aforementioned cognitive disability of A.T. However, the
2 interviewer (Seeley) was selected and allowed to conduct the interview
3 despite this knowledge as to A.T.'s issue, and she was not trained to
4 provide forensic interviews for special needs children. Neither the fact of
5 A.T.'s cognitive issues, or being advised of them, or the fact the
6 interviewer at the SAFE Center was not equipped to do forensic interviews
7 of a child with A.T.'s disability, was included in the warrant application.

8 f. "On January 6, 2021, Social Worker Dominique Smith, spoke with
9 SAFE Center Interviewer, Kandyce Seely. Social Worker Seely stated that
10 during the SAFE interview [A.T.] disclosed that on December 20, 2020,
11 prior to law enforcement responding to the home, the parents conducted a
12 family meeting. During the meeting, [D.O.] stated that the mother choked
13 him and the mother attempted to correct him by saying that she grabbed
14 him by the back of the neck because he was not listening." The family had
15 no such meeting before the police came on 12/20/20, and STARKES knew
16 that, for she was in possession of the police report – which she also did not
17 attach to the warrant application, nor did she and SMITH attach it to the
18 Detention Report – which expressly noted that B.T., the oldest child who
19 called the police, was on the phone with the police the entire time –
20 reporting that the police kept her on the phone until they arrived at the
21 home; the police met all of the family per the report at the front door when
22 they arrived and immediately separated the children.

23 g. "It is believed that the parents are doing in-person visitation daily,
24 instead of the virtual visitation every other day as agreed upon." As
25 previously noted, there was absolutely no evidence of any agreed upon
26 "virtual visitation" in the Safety Plan, thus no basis for that or the "every
27 other day" claim.

1 h. “During the SAFE interview on December 30, 2020, [D.O.] mentioned a
2 family meeting, which included the parents, that occurred the day before
3 the SAFE interview. He stated that they discussed the process of an
4 interview.” STARKES specifically omitted that D.O.’s reference to
5 anything resembling a “discuss[ion] [about] “the process of an interview” –
6 which was how STARKES characterized it – was, 1) the child saying,
7 “grandma read us a brochure she got sent from here [the SAFE Center],”
8 and, “my little sister [A.T.] would be getting interviewed and that we’d
9 definitely be here for a couple of hours.” D.O. added, “And that’s really it.”
10 2) and my parents, since they were allowed to visit, um, last night, they
11 said, um, that, that everything was fine, and you’re doing a big interview,
12 good luck, we want to be able to see you tomorrow, and so, um, really just,
13 we talked about that before they had left, and then that’s when my grandma
14 showed us the brochure.”

15 83. STARKES also omitted and concealed exculpatory information that she
16 knew either cut against or completely obliterated the representations she made
17 in the warrant application, including, but not limited to:

18 a. The fact that there was no evidence, at all, in support of the assertion
19 that the parents discussed “the ongoing CPS and law enforcement
20 investigations” with any of the children.

21 b. Even though STARKES discussed the 12/20/20 visit by CITY police
22 officers on 12/20/22 to the O’Neel home, she entirely omitted that the
23 officers left the home, left the children in the home, and made no arrests
24 nor issued any citations that night; obviously doing so because this would
25 be an indication there was nothing rising to the level of an imminent risk of
26 serious bodily requiring removal of the children.

27 c. That D.O., when speaking to his sister B.T. immediately after the
28 incident in the kitchen on 12/20/21 reported he was, “fine.”

1 d. That D.O. admitted that he lied about being choked by Faun at the SAFE
2 interview. Saying that he was “mad,” directly saying also,

3 **D.O.:** I don't know why I said it, but I regret it. And I said that she grabbed
4 me by both her hands. But she didn't. **K.Seeley:** Okay. Tell me about how
5 you're feeling right now. **D.O.:** I just wanted to apologize.

6 e. That D.O. said in the SAFE interview, when explaining why he gets in
7 “the most trouble [at home],” said, “Well, instead of choosing to tell the
8 truth, I tell a lie.” Adding, “So I’m always getting in trouble.”

9 f. That other of the children noted D.O. had an issue with lying.

10 g. That D.O. admitted at the SAFE interview that Faun merely grabbed him
11 by the back of the neck to escort him to the kitchen because he was not
12 listening.

13 h. That there were no marks or bruises on D.O. evidencing that he was
14 choked or carried by the neck, despite the fact STARKES had noted that
15 herself in her own notes of her interview with D.O.

16 i. That A.T. disclosed at the SAFE interview that, contrary to D.O.’s
17 assertion, he was not carried to the kitchen but, instead, walked from his
18 room to the kitchen.

19 j. That D.O. denied being pushed down the stairs by Faun on a prior
20 occasion, and that the “combined” version of an alleged push down the
21 stairs and a resulting injury to D.O.’s head that required “stitches,” if even
22 the former was a perception of D.O., were in fact two separate events
23 entirely, and he had in fact injured his head later the same day jumping off
24 of or falling off of a bed, or bed bunk ladder, injuring himself off or around
25 on his bed.

26 k. That none of the past disciplinary history of the children rose to the level
27 of child abuse.

28

1 1. That nothing in the signed Safety Plan stated that visits between the
2 parents and the children were to be “virtual.”

3 m. Before the SAFE interview on December 30th, 2020, Faun had informed
4 STARKES of cognitive deficiencies suffered by A.T., and Faun had
5 literally told CATANIO on the day of the removal (12/22/20) that A.T.’s
6 cognitive deficiencies were related in particular to an orientation as to
7 “time.” Faun also gave DOMINIQUE SMITH (not a defendant), who was
8 the social worker right at the timeframe of the removal because STARKES
9 was on vacation, a copy of A.T.’s Individualized Education Plan, which
10 reflected the aforementioned cognitive disability of A.T. However, the
11 interviewer (Seeley) was selected and allowed to conduct the interview
12 despite this knowledge as to A.T.’s issue, and she was not trained to
13 provide forensic interviews for special needs children. Neither the fact of
14 A.T.’s cognitive issues, or being advised of them, or the fact the
15 interviewer at the SAFE Center was not equipped to do forensic interviews
16 of a child with A.T.’s disability, was included in the warrant application.

17 n. That D.O. had said he felt “safe” with the parents at their home and B.T.
18 (the eldest) had also said she felt D.O. was safe in the home.

19 84. An important fact regarding what STARKES “knew” and did not
20 “know” about the representations she was making in the warrant application,
21 then the Petition and Detention Report, is that the events of 12/20/20, and the
22 events of 12/22/20, are all contained in one single “police report.” Within that
23 police report, was the admission by [D.O.] at the SAFE interview that he had
24 lied about being choked. As noted, somehow this critical fact, this mainstay
25 claim of the “abuse,” of this “choking and being carried” by his neck, was left
26 out of the warrant application, the Petition, and the Detention Report.

1 85. Based on the foregoing false representations and omissions of fact by
2 STARKES the Juvenile Court granted the request for protective custody
3 warrants.

4 86. The same day, on January 8, 2021, SMITH and STARKES filed Juvenile
5 Dependency Petitions as to all four minors. Each petition was signed by
6 SMITH and STARKES under penalty of perjury, and averred to the same
7 facts alleged above, painted as a truly abusive scenario, and likewise had the
8 same numerous omissions of exculpatory information.

9 87. Despite their obligation to tell the complete truth, SMITH and
10 STARKES made numerous misrepresentations of fact such as those identified
11 hereinabove, which they knew to be untrue at the time made or, did not know
12 one way or the other, and exhibited reckless disregard as to the truth of the
13 matters asserted.

14 88. SMITH and STARKES also concealed material exculpatory information
15 in their possession. Among other things, in their petitions, SMITH and
16 STARKES falsely represented that:

17 a. “The mother, Faun O’Neel, has untreated anger management, which
18 impairs her judgment and ability to provide adequate care, protection, or
19 supervision of the children...due in part to the mother’s excessive corporal
20 punishment of the children.”

21 b. “On or about December 21, 2020, the mother placed both of her hands
22 around the child’s, [D.O.], throat, lifting him where his feet were off the
23 ground/kicking, taking him into the kitchen.”

24 c. “The mother’s excessive corporal punishment of [D.O] places all of the
25 children at risk for serious physical harm, abuse, and/or neglect.”

26 89. As in the warrant application, SMITH and STARKES concealed known,
27 exculpatory information from the petitions, including, but not limited to all of
28 the omissions mentioned in the paragraphs, above.

1 90. SMITH and STARKES also prepared and filed a Detention Report on
2 January 11, 2021, wherein the same misrepresentations and omissions of fact
3 noted hereinabove as to the warrant application were repeated; they had been
4 in possession of the CITY police report over three weeks at that point.

5 91. For example, while “the undersigned” acknowledged receiving a copy of
6 the Folsom Police Report, they provided a distorted and incomplete summary
7 of the police report, instead of attaching it to the Detention Report. SMITH
8 and STARKES did so in order to conceal inconvenient truths, including, but
9 not limited to, the admission in that D.O. made at the SAFE interview that he
10 lied about the alleged choking because he was mad at his mother.

11 92. Another fact disclosed in the police report was the fact that there were no
12 marks or bruises on D.O. that were consistent with him being choked and
13 carried by the neck.

14 93. SMITH and STARKES also stated that, “It was also reported that the
15 mother shoved the child, [D.O.], in the past, resulting in a hospital trip where
16 [D.O.] required stitches in his head and the mother told the medical
17 professionals that [D.O.] hit his head on his bed.” However, said defendants
18 intentionally omitted D.O.’s own statements at the SAFE interview,
19 explaining that there were two separate events and that he did not go to the
20 hospital because he fell down the stairs (or was “pushed”), but he had, “Later
21 that day, [] decided to climb on my sisters bunk bed, and jump off, and
22 cracked my head open;” this statement was right in the police report from
23 which STARKES was quoting other facts in the Detention Report, the one she
24 did not attach.

25 94. Nowhere in the fraud filled Detention Report was there any mention of
26 D.O. admitting that he lied to his sisters and lied to the police about being
27 choked, or about his general propensity for lying.
28

1 95. In the Detention Report SMITH and STARKES also repeated the false
2 summary of the terms of the safety plan and, like the police report,
3 intentionally failed to attach a copy for the court to review.

4 96. Plaintiffs allege that the failure to attach these documents, containing
5 pertinent and contradictory as well as exculpatory information, in documents
6 submitted to the Court, is part and parcel of a long standing “practice” of the
7 child welfare agency/COUNTY to obfuscate the “truth,” regardless of
8 whether it involves committing perjury to do so; this is addressed in the Claim
9 for Relief regarding Monell liability below. And Plaintiffs further allege this
10 is an intentional act to corrupt the judicial process of the dependency court in
11 which a family finds itself ensnared. This long standing and well-settled
12 practice of COUNTY leads to continued unlawful separation of children and
13 their parents – as it did in this family’s case – and violates their 4th and 14th
14 Amendment rights against unreasonable seizures and unlawful interference in
15 familial associations.

16 97. As a broader proposition, this behavior not only cost the O’Neel family
17 more money, as Danny and Faun had to occupy a hotel during all times the
18 children were allowed to be in the care of Fara Canutt in the O’neel home, but
19 is also costs the taxpayers thousands to hundreds of thousands of dollars each
20 year supporting what is unknown to them to be a corrupt and fraud filled
21 system, because the juvenile court system is closed and confidential from
22 public oversight.

23 98. SMITH and STARKES again falsely reported that A.T. “disclosed that
24 on December 20, 2020, prior to law enforcement responding to the home, the
25 parents conducted a family meeting,” suggesting that Faun coached the
26 children that she did not choke D.O. “but grabbed him by the back of the neck
27 because he was not listening.” As mentioned, above, no such disclosure was
28 made at A.T.’s SAFE interview.

1 99. At the detention hearing, the Juvenile Court accepted the false report of
2 SMITH and STARKES into evidence, as it is required to do pursuant to
3 California law, a requirement well known to SMITH and STARKES and all
4 the social workers and supervisors who work for COUNTY. The juvenile
5 Court relied upon said Detention Deport in ordering the continued detention
6 of the children.

7 100. As a result, the children were not returned fully to their parents, with all
8 family members living fully in their home, until late May of 2021, at which
9 point even then the agency social worker described allowing the grandparents
10 to leave the O'neel home and Faun and Danny to return to it and live with the
11 children, merely a "return to some normalcy," not to normal.

12 **GOVERNMENT CLAIM RE: STATE LAW CLAIMS**

13 101. Plaintiffs served a government claim against the City of Folsom and its
14 agents on June 16, 2021. Defendant City of Folsom rejected the claim on or
15 about June 24, 2021.

16 102. Plaintiffs also served a government claim against the County of
17 Sacramento and its agents on June 16, 2021. Defendant County of Sacramento
18 did not provide any written notice rejecting the claim, thus Plaintiffs' claim
19 was *de facto* rejected as a matter of law after 45 days.

20 **DAMAGES**

21 103. As a result of the conduct of Defendants, Plaintiffs have suffered severe
22 emotional distress, anxiety, and general damage to their psyche, to such an
23 extent as to cause physical manifestations, including, but not limited to,
24 anxiety, depression, nausea, loss of appetite, sleep and diet disturbances,
25 tearfulness, headaches, and general malaise.

26 104. Due to the removal from grandmother Canutt, based on the false
27 statements and numerous omissions of exculpatory information in the warrant
28 application submitted by STARKES on January 8th, 2021, with ratification

1 and approval of SMITH, D.O. was placed in a “foster care” home. During his
2 time in that foster home, he was exposed to online pornography, and engaged
3 in some behaviors that led to police involvement. A fixation with
4 nudity/pornography and subsequent behaviors by D.O. as a result of that
5 exposure, led to D.O.’s placement in a private residential facility in April of
6 2022 that costs \$14,035 per month. D.O. is still residing as of the filing of this
7 Second Amended Complaint in said facility. This caused the incursion of
8 medical/mental health related costs for D.O., and it is reasonably anticipated
9 there will be future medical expense and therapy costs also. These damages,
10 as well as travel and lodging costs related to placement of D.O. in the facility,
11 and the other family members visiting D.O. are claimed as damages according
12 to proof at time of trial.

13 105. Separately, Plaintiff Faun O’neel suffered damages in the form of rent
14 paid on additional housing for herself and Danny post STARKES and
15 SMITH’s filing of the warrant application and removal of children second
16 time by way of the fraudulently obtained warrant to remove all the children.

17 106. Defendants acted with malice and with the intent to cause injury to
18 Plaintiffs and/or acted with willful and conscious disregard of the rights of
19 Plaintiffs, in a vile, despicable, and contemptible manner, both with regard to
20 the removal of the children on 12/22/20, and the overwhelming fraud and
21 withholding of crucial exculpatory information in the warrant application,
22 Petition, and Detention Report, and therefore Plaintiffs are entitled to punitive
23 damages intended to punish Defendants and to deter them and others similarly
24 situated vis-à-vis employment with CITY as a police officer, and employment
25 with COUNTY as social workers and supervisors, from engaging in such
26 conduct in the future.

27 //

28

FIRST CLAIM FOR RELIEF

WARRANTLESS SEIZURE OF CHILDREN (42 U.S.C. § 1983)

(Plaintiff vs. CATANIO & WRIGHT, DOE CITY DEFENDANTS)

107. Plaintiffs incorporate by reference paragraphs 1 through 102 as if the same were fully set forth herein, as against CATANIO and WRIGHT for the unlawful warrantless removal of the children on December 22nd, 2020.

108. The right to familial association guaranteed under the Fourteenth Amendment is “clearly established” such that any reasonable law enforcement agent in Defendants’ situation would know it is unlawful to remove a child under the circumstances of each of the O’neel children in December of 2020, from the care, custody, and control of its parents or to question, threaten, examine, or search a child in the absence of exigent circumstances without first obtaining a warrant.

109. Moreover, the right to familial association guaranteed under the Fourteenth Amendment to the United States Constitution was so clearly established that any reasonable law enforcement agent, including Defendants, would know that it is unlawful to continue to detain a child from the custody of her parent when that agent knows, or has reason to know, that there is no legal or factual basis for the continued detention.

110. Likewise, the children’s rights to be free from unreasonable seizure was clearly established pursuant to the Fourth Amendment of the United States Constitution, and their rights were violated by their seizure.

111. These Defendants, and both of them, had, at all times relevant herein, an affirmative duty and obligation to recognize and conduct themselves in a manner that confirms, provides for, and does not violate the protections guaranteed Plaintiffs under the United States Constitution, including those under the Fourteenth Amendment, to include without limitation, the rights

1 against unreasonably seizure, the rights of familial association between Faun
2 and her children, and general rights of privacy and family integrity.

3 112. On December 22, 2020, all of the Plaintiffs procedural due process rights
4 pursuant to the Fourteenth Amendment were violated by the conduct of these
5 Defendants.

6 113. At the time of said detention, Defendants, and each of them, knew a
7 parent-child relationship existed between Faun O'Neel and her children, B.T.,
8 A.O., D.O., and A.T, and that Faun was entitled to the companionship, care,
9 custody, and management of her children free of unwarranted government
10 interference, and likewise her children were entitled to the companionship and
11 care of Faun.

12 114. These Defendants, and both of them, failed to conduct a reasonable
13 investigation into the facts prior to detaining each of the children and placing
14 them in foster care, thus did also violated Plaintiffs' rights under the
15 Fourteenth Amendment of the United States Constitution.

16 115. Each Defendant collaborated, acted, and/or conspired to violate
17 Plaintiffs' civil rights.

18 116. These Defendants purposefully failed to seek and/or obtain a warrant,
19 knowing that insufficient grounds or evidence existed to support such
20 application and/or, as detailed in Plaintiffs' Sixth Claim for Relief, below, as a
21 result of an unconstitutional policy, custom, or practice of never obtaining
22 warrants prior to seizing children.

23 117. As a result of the unlawful actions and failures to act lawfully described
24 hereinabove with regard to these Defendants, Plaintiffs claim as damages
25 those specified in paragraphs 103 through 105 above.

26 118. Further, as a result of the manner and intentional conduct or reckless
27 disregard of the Plaintiffs rights by these Defendants, Plaintiffs claim as
28 damages the punitive damages specified in paragraph 106 above.

SECOND CLAIM FOR RELIEF

UNLAWFUL SEARCH 12/22/20 (42 U.S.C § 1983)

(Plaintiffs vs. CATANIO, WRIGHT, DOE CITY DEFENDANTS)

119. Plaintiffs incorporate by reference paragraphs 1 through 102 as if the same were fully set forth herein.

120. In doing the acts complained of herein, Defendants acted under the color of the law to violate each of the Plaintiffs' right to be free from unreasonable searches under the Fourth Amendment to the United States Constitution.

121. Defendants acted under color of law by unlawfully entering the family home multiple times without a warrant or an exception to the warrant requirement, thereby depriving them of their constitutionally protected rights.

122. Each Defendant collaborated, acted, and/or conspired to violate Plaintiffs' civil rights.

123. Defendants purposefully failed to seek and/or obtain a warrant, knowing that insufficient grounds or evidence existed to support such application and/or, as detailed in Plaintiffs' Sixth Claim for Relief, below, as a result of an unconstitutional policy, custom, or practice of never obtaining warrants prior to entering homes without consent.

124. As a direct and proximate result of these Defendants' misconduct, Plaintiffs have suffered, and will continue to suffer, general and special damages according to proof at trial, including but not limited to, physical and/or mental anxiety and anguish, among other things. Plaintiffs have also incurred, and will continue to incur, attorneys' fees, costs and expenses, including those authorized by 42 U.S.C. section 1988, to an extent and in an amount subject to proof at trial.

1 125. Plaintiffs incorporate by reference as though fully set forth herein, the
2 damages specified in paragraphs 103 through 105, as they apply to Plaintiffs
3 claim for damages for the violation of the constitutional rights specified in
4 this Claim for Relief based on the Defendant's conduct set forth hereinabove.

5 126. Plaintiffs incorporate by reference as though fully set forth herein, the
6 damages specified in paragraph 106, as punitive damages apply to Plaintiffs'
7 claim for damages for the violation of the constitutional rights specified in
8 this Claim for Relief based on the Defendant's conduct set forth herein above.

9 **THIRD CLAIM FOR RELIEF**

10 **JUDICIAL DECEPTION & UNLAWFUL SEIZURE**

11 **– Warrant Application**

12 (Plaintiffs vs. STARKES and SMITH)

13 127. Plaintiffs incorporate by reference paragraphs 1 through 102 as if the
14 same were fully set forth herein for a claim against STARKES and SMITH
15 for the promulgation and submission of a warrant application with the
16 numerous false representations of facts, half-truths, and omissions of
17 exculpatory information noted above, which was used to exact an unlawful
18 seizure of the children.

19 128. At the time (January 8th, 2020, when the children were taken from their
20 home and mother Faun by way of the warrant granted on the fraudulent
21 warrant application), there was no lawful Court order from any Court
22 exercising jurisdiction over the O'Neel children. The parents were
23 cooperating with a Safety Plan, and were indeed visiting their children every
24 day in their home under the watchful eye of Grandma Canutt, but the children
25 were not under the jurisdiction of any Court and staying in their home.

26 129. Plaintiffs allege that Defendant STARKES deliberately fabricated false
27 evidence against Plaintiffs with the multiple misrepresentations in the warrant
28 application noted above, and intentionally or with reckless disregard omitted

1 exculpatory information as noted above, doing so in consultation with
2 SMITH, and with the review, ratification, and affirmative consent and
3 approval for submitting to the juvenile court of SMITH after SMITH's review
4 and proposed edits.

5 130. Plaintiffs are informed and believe that in fact SMITH forced changes to
6 the warrant application that STARKES did not agree with, and STARKES
7 knew such changes would yield a perjurious recounting of events and
8 circumstances known to STARKES from her involvement in the
9 investigation; still STARKES signed the warrant application under penalty of
10 perjury.

11 131. As a result of preparing the warrant application in the manner STARKES
12 and SMITH did, and submitting same to the Court, these Defendants caused a
13 second seizure of the children in less than three (3) weeks time, violating
14 Plaintiffs 4th and 14th Amendments previously stated in this Complaint. The
15 warrant application accomplished the unlawful removal, and then supported
16 the following fraudulent and exculpatory information devoid Detention Report
17 and Petition STARKES and SMITH submitted to the juvenile dependency
18 court, the latter two accomplishing the unlawful continued deprivation of the
19 O'Neel family members rights to family association under the Fourteenth
20 Amendment to the United States Constitution, and the continued violation of
21 the children's 4th Amendment rights of unreasonable seizure.

22 132. Said misrepresentations and fraudulent omissions in the warrant
23 application are described hereinabove at length.

24 133. At the time each misrepresentation of a fact was made, STARKES and
25 SMITH knew the representations were not true or acted in reckless disregard
26 by including representations for which she had no knowledge were true or
27 false. And at the time of each omission/concealment of material facts,
28 STARKES and her supervisor SMITH knew that the warrant application was

1 not telling the complete truth, yet they submitted it to the juvenile dependency
2 court with the objective of misleading the Superior Court of California to
3 issue a warrant to seize all of the children, which the Court did.

4 134. As a result of the unlawful actions and failures to act lawfully described
5 hereinabove with regard to these Defendants, Plaintiffs claim as damages
6 those specified in paragraphs 103 through 105 above.

7 135. Further, as a result of the manner and intentional conduct or reckless
8 disregard of the Plaintiffs rights by these Defendants, Plaintiffs claim as
9 damages the punitive damages specified in paragraph 106 above.

10 **FOURTH CLAIM FOR RELIEF**

11 **JUDICIAL DECEPTION & CONTINUED DETENTION**

12 **By W&IC 300 Petitions**

13 (Plaintiffs vs. STARKES, SMITH and DOE COUNTY DEFENDANTS)

14 136. Plaintiffs incorporate by reference paragraphs 1 through 102 above as if
15 the same were fully set forth herein as against STARKES and SMITH for a
16 claim against STARKES and SMITH for the promulgation and submission to
17 the juvenile court of the four children's Welfare & Institutions Code 300
18 Petitions, containing the numerous false representations of fact, half-truths,
19 and omissions of exculpatory information noted above.

20 137. At the time each misrepresentation and omission of exculpatory
21 information was made, said Defendants knew the statements were not true or
22 acted in reckless disregard by including representations for which they had no
23 knowledge they were true or false, and in many instances were
24 misrepresenting facts they actually knew to not be as stated.

25 138. At the time of each concealment of material fact, said Defendants knew
26 that they were not telling the complete truth with the objective of misleading
27 the Superior Court of California to continue the detention of the children.
28

1 139. The Petitions accomplished the unlawful continued deprivation of the
2 children and continued the violation of the O'neel family members rights to
3 family association under the Fourteenth Amendment to the United States
4 Constitution, and the continued the violation of the children's 4th Amendment
5 rights of unreasonable seizure.

6 140. As a result of the unlawful actions and failures to act lawfully described
7 hereinabove with regard to these Defendants, Plaintiffs claim as damages
8 those specified in paragraphs 103 through 105 above.

9 141. Further, as a result of the manner and intentional conduct or reckless
10 disregard of the Plaintiffs rights by these Defendants, Plaintiffs claim as
11 damages the punitive damages specified in paragraph 106 above.

12 **FIFTH CLAIM FOR RELIEF**

13 **JUDICIAL DECEPTION & CONTINUED DETENTION**

14 **By Detention Report**

15 (Plaintiffs vs. STARKES, SMITH and DOE COUNTY DEFENDANTS)

16 142. Plaintiffs incorporate by reference paragraphs 1 through 102 as if the
17 same were fully set forth herein for a claim against STARKES and SMITH
18 for the promulgation and submission to the juvenile court of a Detention
19 Report with the numerous false representations of facts, half-truths, and
20 omissions of exculpatory information noted above.

21 143. Plaintiffs allege that Defendants SMITH and STARKES deliberately
22 fabricated evidence against Plaintiffs, and that as a result of this evidence in a
23 report which both STARKES and SMITH knew the juvenile dependency
24 court judge was required to consider in ruling on whether to release the
25 children to the parents, which a juvenile dependency court can do and still the
26 child welfare agency can pursue a ruling that the Court take jurisdiction over
27 the children, the Plaintiffs all suffered a continued deprivation of their right to
28 family association under the Fourteenth Amendment to the United States

1 Constitution, and the children suffered a further violation of their 4th
2 Amendment rights against unreasonable seizure.

3 144. At the time each misrepresentation was made, said Defendants knew the
4 statements were not true or acted in reckless disregard by including
5 representations for which they had no knowledge were true or false or a
6 misrepresentation of facts they already knew to be untrue as stated. At the
7 time of each concealment of material fact, said Defendants knew that they
8 were not telling the complete truth with the object of misleading the Superior
9 Court of California to continue the detention of the children, and it worked.

10 145. As a result of Defendants' fraudulent and perjured statements, Plaintiff
11 Faun and her children remained separated for over 5 months, and to this day
12 as a result of the actions of these Defendants, Faun, D.O., and the rest of the
13 O'neel family remain in circumstances whereby D.O. is not residing with the
14 family due to the actions of these Defendants.

15 146. As a result of the unlawful actions and failures to act lawfully described
16 hereinabove with regard to these Defendants, Plaintiffs claim as damages
17 those specified in paragraphs 103 through 105 above.

18 147. Further, as a result of the manner and intentional conduct or reckless
19 disregard of the Plaintiffs rights by these Defendants, Plaintiffs claim as
20 damages the punitive damages specified in paragraph 106 above.

21 **SIXTH CLAIM FOR RELIEF**

22 ***MONELL RELATED CLAIMS***

23 (Plaintiffs vs. CITY & COUNTY)

24 148. Plaintiffs incorporate by reference paragraphs 1 through 102 as if the
25 same were fully set forth herein.

26 149. CITY, including through its Folsom Police Department entity, is a
27 "person" within the meaning of 42 U.S.C. § 1983 and subject to Monell
28 liability. (Monell v. Dept. of Social Services (1978) 436 U.S. 658.)

1 150. COUNTY, including through its DCFAS entity is also a “person” within
2 the meaning of 42 U.S.C. § 1983 and subject to Monell liability.

3 151. Defendants, City of Folsom and County of Sacramento, including
4 through their respective agencies, had a duty to Plaintiffs at all times to
5 establish, implement and follow policies, procedures, customs and/or
6 practices (hereinafter referred to as "policy" or "policies") which confirm and
7 provide the protections guaranteed Plaintiff under the United States
8 Constitution, including those under the Fourth, and Fourteenth Amendments,
9 to include without limitation, the protection of the right to familial relations;
10 the right to privacy; the right not to be defamed or stigmatized; the right to be
11 free from unlawful searches and entry into persons private residences; and the
12 right to both procedural and substantive due process.

13 152. Defendants also had a duty to supervise, train, control and review the
14 activities and actions of all their employees who interact with the public so as
15 to protect the aforementioned constitutional rights and take such steps as
16 necessary to cause employees to refrain from violating citizens constitutional
17 rights as occurred with Plaintiffs. Indeed City and County are required by law
18 to do these things in order to avoid causing exactly the kinds of violations of
19 constitutional rights, and the kinds of injuries and damages alleged herein (see
20 *Wallis v. Spencer*, 202 F.3d 1126, 1141 (9th Cir. 2000), *Mabe v. San*
21 *Bernardino County, Dept. of Public Social Services*, 237 F.3d 1101 (9th Cir.
22 2001), *Rogers v. County of San Joaquin*, 487 F.3d 1288 (9th Cir. 2007),
23 *Demaree v. Pederson*, (9th Cir. 2018) 887 F.3d 870, *Mann v. County of San*
24 *Diego*, (9th Cir. 2018) 907 F.3d 1154, and many more).

25 153. Based on the duties charged to City of Folsom and County of
26 Sacramento, related to the nature of work (child abuse investigations) which is
27 a usual and recurring situation with which their employees are engaged, the
28 failure to adequately train their employees evidenced by the conduct of

1 removing Plaintiff Faun O’Neel’s children as factually alleged in this case on
2 December 22nd, 2020 – as to CITY, and yet again on February 8th, 2021 – as
3 to COUNTY, in addition to the multiple familial rights association violation
4 cases brought by other parents and children whose children were unlawfully
5 removed set forth herein below spanning over 15 years, make it reasonable to
6 believe – and Plaintiffs allege - that the Defendant County and City have been
7 and remain to this day (see *Henao v. County of Sacramento*, Case #2:22-cv-
8 00352-MCE-KJN) deliberately indifferent to the constitutional rights of
9 familial association enjoyed by parents and children in the United States
10 pursuant to the U.S. Constitution, its Amendments, the decisions of the 9th
11 Circuit Court of Appeal having jurisdiction over the State of California as to
12 federal law, and that the CITY and COUNTY’S failure to provide adequate
13 training of employees such as the individually named Defendants herein was
14 the moving force behind the removal of the minor children in this suit and the
15 constitutional violations related thereto and complained of herein.

16 154. To the extent training is provided by the entities, it lacks explication of
17 the full considerations that social workers and law enforcement personnel
18 must evaluate and the standards that must be met under those circumstances
19 for the removal or separation of a child from his or her parents to be lawful
20 under the U.S. Constitution and it’s Amendments, and the plethora of
21 decisional law that informs both the contours of the familial association
22 rights, and the circumstances that can make removal of a child both “truly
23 exigent” and done without violating a family’s rights.

24 155. Neither CITY or COUNTY takes any measures to “audit” the efficacy of
25 the trainings they do provide employees, which is to say, absolutely no effort
26 is made to ascertain whether or not the employees are absorbing and/or
27 actually understanding or comprehending the gravamen of the trainings that
28 they may receive, if any.

1 156. Plaintiffs allege that none of the social workers and/or law enforcement
2 officers in any of the previous unlawful removals of children listed by way of
3 lawsuit titles herein below, and the countless other instances of unnecessary at
4 best, unlawful at worst removals of children previously that never make it into
5 the public eye due to the closed-door everything-is-confidential nature of
6 juvenile dependency proceedings in this state, were ever disciplined or
7 reprimanded for their violation of the parents or children's rights, and that
8 none of the individually named Defendants herein working for either CITY or
9 COUNTY who removed the children of Faun O'Neel without the requisite
10 exigency or consent to make the removal lawful, have been disciplined or
11 reprimanded for their violation of this families rights; not one.

12 157. The CITY and COUNTY have engaged in a long standing practice and
13 custom of removing children from their parents in the course of investigating
14 a referral for child abuse or neglect without first doing a reasonable
15 investigation, and then further without reasonable cause to believe that the
16 child/ren were at such an imminent risk of serious bodily injury that there was
17 both insufficient time within which to obtain a warrant, and also, there were
18 no alternative means that were less intrusive into the sanctity of the family
19 reasonably available to protect the child/ren from whatever injury the
20 government actor believed was likely to occur imminently.

21 158. As to COUNTY, Each of the cases cited below, all of which were
22 actually filed in either this District Court or the Superior Court of the State of
23 California for Sacramento County, involved the removal of children from
24 their parent or parents in the absence of an imminent risk of serious bodily
25 injury, when there existed both sufficient time to obtain a warrant and
26 numerous lesser intrusive alternatives to removal reasonably available. They
27 span the past 17 years – thus constituting a widespread and long-standing
28 practice – and Plaintiffs allege that such practice, engendered and fostered a

rote response to remove the O’Neel children by the entity employees sued herein and all others who succumb to a widespread practice (i.e. “the way we do things”), and therefore such practice and custom was a moving force in the removal of the minor children of Faun O’Neel by the individually named Defendants.

159. As another aspect of the practice and custom of the entity Defendants City and County that is widespread and longstanding, is that if their employees make a decision to remove one child from a whom, possibly the only child for whom there has been any claim of neglect or abuse, then the employees will seize and remove all of the children in a home without undertaking a particularized or reasonable investigation and accounting for whether the circumstances really do qualify as exigent circumstances and there are no lesser intrusive alternatives regarding each child; such practices – widespread as they are across all child welfare and law enforcement agencies – have some common descriptive phrases such as the “ad-sib policy,” and/or the “take one, take all” policy.

160. Just as with the practice and custom of conducting unlawful warrantless removals generally, this practice of removing all children in a home if even only one is the subject of allegations which might justify removal, is what motivated and generated a rote response by DCFAS personnel to remove all of the O’Neel children by the entity employees sued herein despite the fact there was an allegation of abuse as to solely one child, as is the widespread and longstanding practice, and therefore such practice and custom was a moving force in the removal of the minor children of Faun O’Neel by the individually named Defendants.

161. Each of the following cases involved families suffering unlawful warrantless removals of children, and all received payment of significant settlements as a result of their lawsuits; *Jonathan Welch v. County of*

1 *Sacramento*, case 2:07-cv-00794-GEB-EFB, *Angel Clokey v. County of*
2 *Sacramento*, case 2:08-cv-02239-MCE-EB, *Edward Olvera v. County of*
3 *Sacramento*, case 2:10-cv-00550-WBS-KJM (involved a warrant, however, a
4 warrant determined by the Court – Hon. William B. Shubb – for which
5 genuine issues of material fact existed as to whether it had been obtained
6 through judicial deception), *Joseph Henao v. County of Sacramento*, 2:22-cv-
7 00352-MCE-KJN, *Anna Nikolayev v. County of Sacramento* (State Court)
8 2001620, *Giammona v. County of Sacramento* (State Court) Case No.
9 05AS02156, and *Joseph Best v. County of Sacramento*, 06AS8354S.

10 162. The *Welch* matter involved allegations regarding one child, all three
11 were taken.

12 163. *Olvera* matter involved allegations regarding one child, seven children
13 were taken.

14 164. The *Giamonna* matter involved allegations regarding one child, yet two
15 children were taken.

16 165. The other matters listed above involved only one child except Best, in
17 which there were two children and the allegation was mother's severe mental
18 health issues and claims – from that mother with severe mental health issues –
19 that father committed domestic violence.

20 166. In this matter, allegations involved only one child, yet four children were
21 taken.

22 167. Another pattern and practice of the COUNTY DFACS is the constant
23 lies, misrepresentations, and omissions of exculpatory evidence in warrant
24 applications, W&IC 300 Petitions, and Detention Reports, as well as any
25 other kind of report or document which DFACS personnel might prepare in
26 the course of an investigation of a referral or for submission to the juvenile
27 dependency court. Again, the aforementioned cases provide a rich history of
28

1 false claims, misrepresentations, and omissions of exculpatory, clarifying, or
2 mitigating information.

3 168. In *Welch*, social worker Misty Sampson of DFACS stated in a court
4 report that the Welch child S.W. had told her that her father had caused a
5 bruise on her ear; the child denied that she ever told Sampson any such thing.

6 169. Although Sampson knew that the child had given no less than four
7 different accounts as to how the slight bruise on the lobe of her left ear had
8 occurred during an interview at her elementary school, Sampson left out of
9 reports she filed with the Court entirely the fact that the child had given
10 multiple differing accounts, just the story line she/DFACS wanted to push
11 was included, which was that father had somehow caused the bruise.

12 170. Then, despite that fact that the child repeatedly said that the only claim
13 DFACS was hanging its hat on was not true, the claim her father caused a
14 bruise on her ear, through the lies and omission of exculpatory information to
15 the Court, Sampson and other defendant social workers were able to
16 successfully keep the two other minor children from their parents for a period
17 of eight (8) months, and the child S.W. for twelve (12) months. She had a
18 significant mental breakdown or other mental crisis during her time in the care
19 of the COUNTY.

20 171. In *Olivera*, was a disgusting and horrible abuse of two parents who
21 dedicated their lives to special needs children, and in which the father
22 (Edward) was himself a social worker with COUNTY! They ran a parent
23 cooperative out of their overly large home in Sacramento, where parents with
24 the most traumatized, emotionally and behaviorally challenged children went
25 for help, and over the years Edward and Carla had adopted several of the most
26 damaged children placed with them by other child welfare agencies. That did
27 not stop the pattern and practice of lying and withholding information from
28 the Court one bit, indeed, it seemed to ramp it up.

1 172. During the COUNTY social workers assault on the Olivera family, they
2 lied about all the following in documents submitted to the juvenile
3 dependency court:

- 4 - a claim that during a visit to the home – an unannounced visit with no
5 authority from Carla to enter more than the front hall – Carla appeared
6 “visibly upset acting erratic and hostile;”
- 7 - forty-seven days after COUNTY social worker surname Lopez went to
8 the Olvera home and viewed twelve children without a single mark or
9 injury or complaint of any kind about their lives in the care of the
10 Olvera’s and investigated the co-op program that by all accounts was
11 saving children’s lives and helping them overcome severe emotional,
12 psychological, and behavioral maladies, and after receiving more than a
13 half-dozen letters of support from parents, therapists, and children,
14 extolling the virtues of the Olveras’, their commitment to and expertise
15 with the children in their care, in addition to phone calls from parents
16 stating the same, Lopez prepared a pleading and request for a protective
17 custody warrant in which she left out all of the following information of
18 which she was well aware,
- 19 - the nature of the program and the work that the OLVERA’S were doing
20 with the children all with special needs in their home, including the
21 education of the children’s parents to assist them in parenting the
22 children,
- 23 - the credentials of Carla and Edward as mental health professionals and
24 trained forensic interviewers, as well as the fact Edward was a former
25 COUNTY social worker,
- 26 - the severe emotional and psychological issues confronting the children
27 they have in the program and the fact that standard therapy / counseling
28

1 and behavioral modification regimens could not, would not, and did not,
2 help the children prior to their involvement in the Olvera's program,
3 - the lack of any signs of physical injury to any of the children in the
4 home, or any complaints by the children – and in fact their statements of
5 love and support for the home and what it had done to improve their
6 lives, they had all literally told Lopez they were happy, felt safe, did not
7 want to leave the home,
8 - the receipt by Lopez of over a half dozen letters and phone calls from
9 parents, children, mental health professionals, and other percipient
10 witnesses extolling the Olevara's and their work,
11 - the fact that the claims by a child designated CHD-O about sexually
12 inappropriate touching by one of the previously sexually traumatized
13 children – meaning, before placement with his adoptive parents who put
14 him in the Olvera's program - were fully investigated by Carla and the in-
15 house therapist Ms. La Valley care who worked with the child for over a
16 year (both mandated reporters), and deemed the claim not even worthy of
17 a referral to CPS,
18 - the actual physical impossibility of the act of inappropriate touching
19 alleged by CHD-O, as it was alleged, which physical impossibility of it
20 as the child described it (being touched by another of the children under a
21 closed and locked bathroom door) was abundantly clear and that was also
22 known to Lopez as it was demonstrated to Lopez in the Olvera home,
23 - the fact that the law enforcement officers who responded to the
24 OLVERA home on December 19th, 2008, had concluded that there was
25 no reason to remove the children from the home and no reason to suspect
26 there had actually been any abuse of CHD-O or any of the other children
27 in the home,
28

1 - Lopez lied and exaggerated about a technique of safe restraint for
2 children experiencing severe emotional dysregulation who may cause
3 harm to themselves or others, which was used in the Olvera home on
4 occasion (“strong sitting”), and which both Carla and Edward were
5 trained for, to paint both as physically abusing the children,
6 - Lopez also demonized the Olvera parents use of another restraint
7 method (“face down”) used in the home, which she used herself in the
8 past working with troubled youth in the Sacramento Children’s Home,
9 - that Lopez had been involved in the matter for forty-four days by the
10 time she submitted the warrant application, the whole while being well
11 aware that CHD-O was living in the home with the alleged “perpetrator”
12 she now needed a warrant to remove the child from the presence of, the
13 irony if not misrepresentation thus being that in her warrant application
14 Lopez stated the following to paint the parents in a false light, saying
15 “[Carla] has allowed the alleged perpetrator to remain in the home and
16 access to the child.”

17 173. On 3/19/13 the Court currently presiding over this matter as of August
18 2023, determined that the Plaintiffs Carla & Edward Olvera had established
19 genuine issues of material fact as to their claim that the protective custody
20 warrant obtained by COUNTY had been obtained through judicial
21 misrepresentations.

22 174. In *Giamonna*, again the social worker handling the investigation of a
23 home and family not unlike the Olvera’s, who also worked with troubled
24 emotionally damaged children, told numerous lies in reports to the juvenile
25 dependency court to justify post-hoc the seizure of the children. One such
26 recurring lie was a description by the social worker of a basically filthy and
27 unsafe home. In *Giamonna*, in possibly the only instance of its kind in in a
28 juvenile dependency matter in history, the juvenile dependency judge stopped

1 a hearing mid-process, and ordered a “field trip” to the *Giamonna* home,
2 which the Court, court staff, the parties and counsel, all departed for
3 immediately.

4 175. After the “field trip,” finding the home absolutely clean, proper, and well
5 maintained, the judge wrote a scathing 21 page opinion which lambasted the
6 COUNTY for engaging in a vendetta against the family.

7 176. The kind of falsification of reality engaged in by STARKES and SMITH
8 in this case is nothing new, it is in fact a pattern and practice of COUNTY
9 social workers, long standing and well settled.

10 177. As a result of the unlawful actions and failures to act lawfully described
11 hereinabove with regard to these Defendants, Plaintiffs claim as damages
12 those specified in paragraphs 103 through 105 above.

13 **SEVENTH CLAIM FOR RELIEF**

14 **FALSE IMPRISONMENT**

15 (Plaintiffs vs. CATANIO, WRIGHT, DOE CITY DEFENDANTS,
16 STARKES, SMITH, DOE COUNTY DEFENDANTS)

17 178. Plaintiffs incorporate by reference paragraphs 1 through 102 as if the
18 same were fully set forth herein as regards a claim against CATANIO and
19 WRIGHT and unknown DOE CITY DEFENDANTS for false imprisonment
20 of the minor children on December 22nd, 2020, and against STARKES and
21 SMITH for their false imprisonment of the minor children on January 8th,
22 2021

23 179. On December 22, 2020, Defendants, CATANIO, WRIGHT, DOE CITY
24 DEFENDANTS, DOE COUNTY DEFENDANTS, and DOES 1 through 10,
25 inclusive, as well as CITY by virtue of the vicarious liability principles of
26 *respondeat superior*, intentionally deprived Plaintiffs, B.T., A.O., D.O., and
27 A.T. of the freedom of movement through seizure, transportation, and
28

1 detention and/or conspired with and agreed with one another to commit the
2 same, such that all said defendants are responsible for the resulting harm.

3 180. None of the Plaintiffs, including the mother of B.T., A.O., D.O., and
4 A.T., consented to the seizure, transportation, and detention of the minor
5 children.

6 181. Defendants, and each of them, did not have judicial authorization to
7 seize and detain the minor children. Further, the seizure of each of the
8 children was not supported by exigent circumstances.

9 182. In promulgating and submitting the warrant application as STARKES
10 and SMITH did, which led to the second seizure of the children with a
11 warrant obtained by fraud and omission of exculpatory information, these
12 Defendants also exacted a false imprisonment of the minor children on
13 January 8th, 2021.

14 183. As a direct and proximate result of these Defendants' misconduct, these
15 Plaintiffs have suffered, and will continue to suffer, general and special
16 damages according to proof at trial, including but not limited to, physical
17 and/or mental anxiety and anguish, among other things.

18 184. Defendants, CITY and COUNTY, are vicariously responsible for the
19 conduct of their respective agents and employees, including, but not limited
20 to, CATANIO, WRIGHT, DOE CITY DEFENDANTS, DOE COUNTY
21 DEFENDANTS, and DOES 1-10, pursuant to California Government Code
22 Section 815.2 and other applicable statutory and case law.

23 185. Plaintiffs incorporate by reference as though fully set forth herein, the
24 damages specified in paragraphs 103 through 105, as they apply to Plaintiffs
25 claim for damages for the violation of the constitutional rights specified in
26 this Claim for Relief based on the Defendant's conduct set forth hereinabove.

27 186. Plaintiffs incorporate by reference as though fully set forth herein, the
28 damages specified in paragraph 106, as punitive damages apply to Plaintiffs'

claim for damages for the violation of the constitutional rights specified in this Claim for Relief based on the Defendant's conduct set forth herein above.

JURY TRIAL DEMAND

187. Plaintiff demands a jury trial on each Claim for Relief set forth above.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. General damages and special damages according to proof;
2. As against the individual defendants, punitive damages as allowed by law;
3. Attorney's fees and costs pursuant to 42 U.S.C. § 1988, and any other appropriate statute;
4. Costs of suit incurred herein; and
5. Such further relief as the Court deems just and proper.

POWELL & ASSOCIATES

Dated: 8/20/2023

By: /s/Robert R. Powell
ROBERT R. POWELL
Attorney for Plaintiffs